

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of San Diego Gas & Electric Company (U 902-E) for a Certificate Of Public Convenience & Necessity Valley-Rainbow 500kV Inter-Connect Project.

Application 01-03-036  
(Filed March 23, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING  
ADDRESSING MOTION TO STRIKE  
AND OTHER PROCEDURAL MATTERS**

**1. Summary**

The March 18, 2002 San Diego Gas & Electric Company (SDG&E) motion to strike portions of joint testimony by Save Southwest Riverside County (SSRC), the City of Temecula, and the Pechanga Development Corporation (jointly, Temecula Parties) and portions of testimony by Centex Homes, Inc. (Centex) is denied. However, I clarify how the testimony at issue will be utilized in this phase of the proceeding.

Rather than grant the request for a protective order by the Office of Ratepayer Advocates (ORA), parties are directed to meet and confer to develop mutually agreeable nondisclosure agreements. The motion to intervene by the Southern California Generation Coalition (Coalition) is granted.

**2. Procedural Background**

On March 15, 2002, SDG&E filed a motion to strike portions of testimony prepared by the Temecula Parties and Centex. By oral ruling, I granted the

parties an opportunity to respond to the SDG&E motion by March 25, 2002. The Temecula Parties, Centex and ORA all filed opposition to the motion to strike. SDG&E filed a reply on March 27, 2002.

On February 4, 2002, ORA filed a motion for protective order concurrent with service of its opening testimony.

On March 11, 2002, the Coalition filed a motion to intervene in this proceeding.

### **3. SDG&E's Motion**

SDG&E's seeks to strike portions of prepared testimony by the Temecula Parties and Centex that focuses on right-of-way acquisition costs. The testimony of the Temecula Parties does not propose a specific cost for land acquisition, instead it goes to the reasons the Temecula Parties believe that SDG&E's project costs are understated, which affects the calculation of ratepayer benefits. Centex's testimony provides a more specific estimate of land acquisition costs than that of the Temecula Parties. Again, this represents Centex's assessment of land acquisition costs for purposes of assessing project benefits.

SDG&E argues that right-of-way acquisition costs are properly the subject of the next phase of this proceeding pursuant to the scooping memo. The testimony submitted by the Temecula Parties and Centex goes to the accuracy of SDG&E's land acquisition cost estimates. Temecula Parties, Centex, and ORA all argue that because this phase deals with the need for the project and requires a sense of the cost of the proposed project, testimony regarding land acquisition costs for SDG&E's proposed project are relevant to assessing the project economics.

I agree that it is important for the Commission to understand how major changes to different cost elements can impact ratepayer benefits. It is appropriate

to identify areas of cost dispute in testimony now, although this phase of the proceeding is not designed to litigate the actual project costs or to develop a cost cap. I will not strike this testimony for this reason. Because this phase of the proceeding is not the place to litigate the actual land acquisition costs, it would be most useful if SDG&E and other parties demonstrate how various project cost scenarios might impact the economics of the proposed project. Parties should not use this phase of the proceeding to present dueling assessors projections of specific land acquisition costs.

#### **4. Motion for Protective Order**

On October 10, 2001, SDG&E filed a similar request for a protective order as the one filed by ORA on February 4, 2002. Consistent with how SDG&E's request was handled, ORA shall negotiate appropriate nondisclosure agreements with parties for protection of sensitive materials. I do not adopt any pro forma nondisclosure agreement at this time.

#### **5. Motion to Intervene**

The Coalition is a group of electric generators located in Southern California. They argue that issues related to adequacy of transmission in Southern California have a direct impact on its members and therefore seeks interested party status. I will grant the Coalition's motion to intervene.

#### **IT IS RULED** that:

1. The March 15, 2002 motion to strike by San Diego Gas & Electric Company is denied but the use of the subject testimony in this phase is clarified.
2. Rather than grant the request for a protective order by the Office of Ratepayer Advocates (ORA), parties are directed to meet and confer to develop mutually agreeable nondisclosure agreements.

3. The following entity is granted Interested Party status:

Norman A. Pedersen, Esq.  
npedersen@hanmor.com  
Scott A. Lehecka, Esq.  
slehecka@hanmor.com  
HANNA AND MORTON LLP  
for Southern California Generation Coalition  
444 South Flower Street, Suite 2050  
Los Angeles, CA 90071

4. The following entity is granted Information Only status:

Catherine E. Yap  
ceyap@earthlink.net  
Barkovich and Yap  
for Southern California Generation Coalition  
P.O.Box 11031  
Oakland, CA 94611

Dated April 3, 2002, at San Francisco, California.

/s/ MICHELLE COOKE  
Michelle Cooke  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Addressing Motion to Strike and Other Procedural Matters on all parties of record in this proceeding or their attorneys of record.

Dated April 3, 2002, at San Francisco, California.

/s/ ERLINDA PULMANO

Erlinda A. Pulmano

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.